

**SECTION 16.**  
**NONCONFORMING USE OF LAND OR BUILDINGS,**  
**NONCONFORMING STRUCTURES\***

---

\*Editor's note: Ord. No. O-01-23, adopted May 21, 2001, repealed former section 16, Nonconforming use, and replaced said section with a new section 16. The former section 16 pertained to similar subject matter and derived from Ord. No. O-99-53, adopted September 20, 1999.

---

**16.1. Intent.**

Within the districts established by this ordinance or amendments that may later be adopted, there may exist uses of land or buildings, structures, characteristics of use, and/or lots, which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments. It is the intent of this section to permit those nonconformities to continue until they are removed, but not to encourage their survival. It is the declared purpose of this section that nonconforming uses or nonconforming structures be eventually discontinued and the use of the premises or the structure be required to conform to the regulations prescribed herein having due regard for the investment in such nonconforming uses or structures. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Nonconforming uses are declared by this section to be incompatible with permitted uses in the districts involved. A nonconforming use of land or a building, or of a structure, or of a structure and land in combination shall not be extended, enlarged, altered or repaired except in accordance with this section.

(Ord. No. O-01-23, § 3, 5-21-2001)

**16.2. Types of nonconformity.**

A. There are two types of nonconformity, they are as follows:

1. **Uses.** Any use of land or buildings which were in existence and lawfully operating on the effective date of this section or amendments hereto, and has since been in regular and continuous use, but which does not conform to the use regulations prescribed in the City of Missouri City Zoning Ordinance or amendments thereto shall be deemed a nonconforming use.
2. **Structures.** Any building or structure which was in existence and lawfully constructed and located on the effective date of this section or amendments hereto, and has since been in regular and continuous use, but which does not conform to the lot area, lot dimensions, front yard, side yard, rear yard, height, parking, landscaping, buffer yards, screening, architectural design, exterior construction materials or other regulations as prescribed in this section shall be deemed a nonconforming building or

structure, except as otherwise provided in the City of Missouri City Zoning Ordinance.

(Ord. No. O-01-23, § 3, 5-21-2001; Ord No. O-05-15; 04/18/05)

**16.3. Nonconforming status.**

- A. Nonconforming status. A nonconforming status under the provisions of this section shall exist when:
  - 1. A use of land, a use of a building, or a structure, which does not conform to the regulations prescribed for the district in which such use or structure is located, was in existence and lawfully constructed, located or operating on the effective date of this section or amendments hereto and has since been in regular and continuous use; or
  - 2. A use of land, a use of a building, or a structure, which does not conform to the regulations prescribed in the district in which such use or structure is located, was in existence at the time of annexation into the City of Missouri City and has since been in regular and continuous use.

(Ord. No. O-01-23, § 3, 5-21-2001)

**16.4. Nonconforming uses involving structures, nonconforming structures or a combination thereof.**

- A. This subsection applies to nonconforming uses involving structures, nonconforming structures or a combination thereof.
- B. Termination. A nonconforming use or structure may be continued or allowed to remain subsequent to the effective date of this section or amendments hereto, provided that such is in accordance with the provisions of this section and all other applicable codes of the City of Missouri City necessary to ensure adequate protection and safety of adjacent property and the users and occupants of such nonconforming use or structure. However, this right shall cease and shall be terminated under any of the following circumstances:
  - 1. Abandonment. Whenever a nonconforming use or structure is abandoned, all nonconforming rights shall cease, and the use of the premises or the structure itself shall henceforth comply with this section. Abandonment shall be the voluntary act of the user and/or owner to discontinue a use or an occupancy of the structure for a period of 120 consecutive days or more.
  - 2. Violation. The violation of any of the provisions of this section or violation of any ordinance of the City of Missouri City with respect to a nonconforming use or structure shall cause the immediate termination of

the right to operate such nonconforming use or occupy such nonconforming structure.

3. Change. Whenever a nonconforming use is changed to a conforming use.
4. Total destruction. Whenever a structure containing a nonconforming use or a nonconforming structure is totally destroyed, the structure can be rebuilt, and a use or occupancy established, only in accordance with the current zoning regulations which have been applied to the land.
5. Partial destruction. Whenever the structure in which a nonconforming use is housed, operated or maintained or a nonconforming structure is damaged or partially destroyed to the extent of more than 50 percent, but less than the total, of the replacement cost of the structure on the date of the damage, the right to continue such nonconforming use or rebuild and occupy such nonconforming structure shall cease. If the damage or destruction does not exceed 50 percent of the replacement cost of the structure on the date of the damage, the structure may be rebuilt upon the condition that the cubic content of the original structure is not increased and upon approval of a building permit by the building official.

C. Changes in use regulation.

A nonconforming use or structure may be changed to a conforming use or conforming structure by a change of zoning so as to achieve compliance with the provisions of a new or different zoning district under the City of Missouri City Zoning Ordinance.

(Ord. No. O-01-23, § 3, 5-21-2001)

**16.5. Nonconforming uses of land not involving structures.**

- A. This subsection shall apply to nonconforming uses of land where no building or structure is involved.
- B. The nonconforming use of land where no building is involved existing pursuant to this section may be continued for a period of not more than two years beyond the effective date of this section or upon annexation by the city, provided that no such nonconforming use of land shall in any way be expanded or extended either on the same or on adjoining property, and that if such nonconforming use of land or any portion thereof is discontinued or changed, any future use of such land shall be in conformity with the regulations of the district in which it is situated.

(Ord. No. O-01-23, § 3, 5-21-2001)

**16.6. Miscellaneous requirements.**

- A. Construction approved prior to this ordinance. Nothing contained herein shall require any change in the plans, construction, or designated use of a building

legally under construction, or for which a permit for construction has been issued, at the time of passage of this ordinance or amendment hereto.

- B. Noncompliance due to outside action. Where a lot, tract, or parcel is occupied by a lawful use or structure, and where the acquisition of right-of-way, by eminent domain, dedication or purchase, by a city, county, state, or federal agency creates noncompliance of the use or structure regarding any requirement of this section, such use or structure shall be deemed a lawful use or structure. Such designation shall apply only to noncompliance that results directly from the acquisition of right-of-way. Any new construction on the lot, tract, or parcel, including expansion of any existing structure, shall comply with all applicable zoning standards, and building setbacks of the expansion or new construction shall be measured relative to the new right-of-way line.
- C. Repairs and maintenance. A structure or building within which a nonconforming use is located or a nonconforming structure shall be maintained to ensure the safety and welfare of the occupants. Ordinary repairs, or the repair or replacement of non-bearing walls, fixtures, wiring, or plumbing may be permitted provided that the cubic content existing when it became nonconforming is not increased.

(Ord. No. O-01-23, § 3, 5-21-2001)